

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHAW FAMILY ARCHIVES, LTD., EDITH MARCUS,
and META STEVENS,

Plaintiffs,

-against-

CMG WORLDWIDE, INC., an Indiana Corporation
and MARILYN MONROE, LLC, a Delaware
Limited Liability Company,

Defendants.

Index No. 05 CV 3939(CM)

DECLARATION OF EDITH MARCUS

1. My name is Edith Marcus. I have personal knowledge of the matters stated in this declaration.
2. I am the archivist and one of the owners of Shaw Family Archives, Ltd. (the "Shaw Family"). The Shaw Family is in the business of licensing images taken by my father, Sam Shaw, and my brother, Larry Shaw. During the mid to late-1950's, my father took thousands of photographs of Marilyn Monroe, many of which are licensed by SFA through Bradford Licensing Associates ("Bradford").
3. Bradford speaks directly with the Shaw Family's licensees and potential licensees. The Shaw Family does not communicate directly with its licensees.
4. I own a fifty percent interest in the copyrights of the images taken by my father, including but not limited to the Marilyn Monroe images (the "Shaw Copyrights").

My sister, Meta Stevens, owns an equal interest in the Shaw Copyrights. My ownership right is based upon a 1998 Trust Agreement executed by my late father. A true and accurate copy of the 1998 Trust Agreement is annexed hereto as Exhibit A. My sister and I license our copyrights to the Shaw Family for licensing to third parties. Neither the Shaw Family Archives, Ltd. nor Bradford own any copyright registrations in Marilyn Monroe images.

5. I have reviewed the Shaw Family images of Marilyn Monroe contained in the book *Marilyn Monroe. The Life. The Myth* ("Rizzoli"). The Shaw Family has never licensed any of the Sam Shaw images in the Rizzoli Works.
6. I have also reviewed the Shaw Family images of Marilyn Monroe contained in the book *Marilyn Monroe as The Girl* ("Ballantine").
7. The Shaw Family has never contacted Defendants or their licensees regarding any use of the Shaw Family images of Marilyn Monroe contained within the Rizzoli or Ballantine works. We certainly never represented that either Defendants or their licensees needed permission from the Shaw Family to use the images in Rizzoli or Ballantine. We did not send Defendants or their licensees any cease and desist letters with respect to our images contained in those works. The allegations to the contrary contained in the Third Amended Complaint are absolutely false.
8. The Shaw Family has withdrawn its copyright infringement claims. In any event, the withdrawn infringement claims pertained to images that were not contained in Rizzoli or Ballantine.

9. The majority of our images of Marilyn Monroe have never been published and therefore cannot be in the public domain.
10. The Defendants have repeatedly threatened the Shaw Family with having to pay the Defendants' attorney's fees in this action, which has caused us significant distress.

I hereby declare under penalty of perjury that the following is true and correct.

Dated: Tappan, New York
January 6, 2008


EDITH MARCUS

This Exhibit is covered by a protective order and was intentionally not filed through ECF. A copy of this exhibit will be filed through ECF under seal.

Ex. A